



PUBLIC NOTICE

Federal Communications Commission
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**MEDIA BUREAU ANNOUNCES FILING OF PETITION FOR DECLARATORY RULING BY
HEMISPHERE MEDIA GROUP, INC. AND PERMIT-BUT-DISCLOSE *EX PARTE* STATUS
FOR THE PROCEEDING**

MB Docket No. 16-238

Comments Due: August 29, 2016
Replies Due: September 13, 2016

Hemisphere Media Group, Inc. (HMTV) has filed a petition for declaratory ruling (Petition) asking the Commission to permit it to accept foreign investment in excess of the 25 percent benchmark set forth in Section 310(b)(4) of the Communications Act of 1934, as amended (the Act).¹ It is seeking a ruling authorizing up to 49.99 percent aggregate foreign investment (equity and voting) in the company.²

In its Petition, HMTV, a Spanish language-media company and Commission licensee, states that it is a publicly traded Delaware corporation headquartered in Florida.³ HMTV has two classes of stock outstanding: Class A voting stock with one vote per share and Class B voting stock with ten votes per share.⁴ HMTV is currently controlled by Intermedia Partners VII, L.P., (IM VII) Delaware limited partnership, which owns 62.28% of all stock outstanding and controls 84.45% of the voting power of the company.⁵ IM VII is controlled by two U.S. citizens, Peter M. Kern and Leo J. Hindery, Jr., each of whom has negative control.⁶ HMTV states that no other person or entity holds an attributable interest in HMTV under the Commission's multiple ownership rules⁷ and that, to its knowledge, no other person or entity owns 10% or more of HMTV's stock.⁸

¹ Petition at 1.

² There are no applications for assignment of license or transfer of control associated with the Petition.

³ *Id.* at 1.

⁴ *Id.* at 2-3.

⁵ *Id.* at 3.

⁶ *Id.*

⁷ See 47 C.F.R. § 73.3555.

⁸ Petition at 3. Additional information on HMTV's structure is available in the Petition.

HMTV states that only one foreign entity, Cinema Aeropuerto, S.A. de C.V., (Cinema Aeropuerto), a Mexican corporation, currently holds 5% or more of the equity or votes in HMTV.⁹ Cinema Aeropuerto currently holds 7.07% of the HMTV's equity and controls 9.59% of the company's votes.¹⁰ Cinema Aeropuerto's ultimate parent is HSBC 61549, a trust organized under Mexican law for the benefit of the descendants of Mr. José Joaquín Vargas Gómez.¹¹ The sole trustee of HSBC 61459 is HSBC Mexico, S.A. an indirect wholly owned subsidiary of HSBC Holdings plc, which is organized under the laws of the United Kingdom.¹² The shares of the trust are voted at the direction of a trust committee, which is comprised solely of children of Mr. Gómez.¹³ A number of other foreign investors also hold direct or indirect interests in HMTV. HMTV estimates that its aggregate foreign ownership may be as high as 17.72% of its votes and 19.79% of its equity.¹⁴

HMTV states that the Petition was prompted because the estimated foreign ownership of HMTV, which is publicly traded, has from time to time approached the 25% benchmark and the company desires the flexibility to exceed the benchmark.¹⁵ HMTV further states that grant of the Petition would be in the public interest because it would enhance the company's ability to raise capital and encourage reciprocity from other governments, facilitating investment by U.S. companies in broadcast stations located in other countries.¹⁶

The Petition has been found, on initial review, to be acceptable for filing. The Commission may require HMTV to submit any additional documents or statements of fact that in its judgment may be necessary. The Commission also reserves the right to return the Petition if, on further examination, it is determined to be defective and not in conformance with its Rules and policies.

EX PARTE STATUS OF THIS PROCEEDING

Pursuant to 47 C.F.R. § 1.1200(a), the Commission may adopt modified *ex parte* procedures in situations where doing so would serve the public interest. We announce that this procedure will be governed by the permit-but-disclose *ex parte* procedures that are applicable to non-restricted proceedings under Section 1.1206 of Commission's Rules.¹⁷

⁹ *Id.* at 4

¹⁰ *Id.* at 4-5.

¹¹ *Id.* at 5.

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.* Additional information on Cinema Aeropuerto and foreign investment in HMTV is available in the Petition.

¹⁵ *Id.* at 6.

¹⁶ *Id.* at 16.

¹⁷ *See* 47 C.F.R. §1.1206.

Permit-but-disclose *ex parte* procedures permit interested parties to make *ex parte* presentations to the Commissioners and Commission employees and require that these presentations be disclosed in the record of the relevant proceeding. Persons making a written *ex parte* presentation to the Commissioners or Commission employees must file the written presentation with the Commission's Secretary no later than two business day after the presentation.¹⁸ Persons making oral *ex parte* presentations must file a summary of the presentation no later than the next business day after the presentation.¹⁹ All *ex parte* filings must be clearly labeled as such and must reference MB Docket No. 16-238. Parties are reminded that memoranda summarizing the presentation must contain the presentation's substance and not merely list the subjects discussed.²⁰ More than a one or two sentence description of the views and arguments presented is generally required.²¹

GENERAL INFORMATION

The Petition and all further filings will be available in the Commissions Electronic Comment Filing System ("ECFS") under Docket 16-238. As of this date, all pleadings, comments and other filings are to be made in ECFS in Docket 16-238. Persons and entities that file comments become parties to the proceeding. They may participate fully in the proceeding, including seeking access to any confidential and/or highly confidential information that may be filed under a protective order.

To allow the Commission to consider fully all substantive issues in as timely and efficient a manner as possible, commenters should raise all issues in their initial filings. New issues may not be raised in responses or replies. A party or interested person seeking to raise a new issue after the pleading cycle has closed must show good cause why it was not possible for it to have raised the issue previously. Submissions after the pleading cycle has closed that seek to raise new issues based on new facts or newly discovered facts should be filed within 15 days after such facts are discovered. Absent such a showing of good cause, any issues not timely raised may be disregarded by the Commission.

All filings concerning matters referenced in this Public Notice should refer to MB Docket No. 16-238.

Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR §§ 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://fjallfoss.fcc.gov/ecfs2/>.
- Electronic filers shall submit an electronic version of their filing to David Roberts, Attorney Advisor, Video Division, Media Bureau at david.roberts@fcc.gov. Identify the submission with the Docket Number in the subject line.

¹⁸ 47 C.F.R. §1.1206(b)(1).

¹⁹ 47 C.F.R. §1.1206(b)(2).

²⁰ 47 C.F.R. §1.1206(b)(1).

²¹ *Id.*

- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW, Washington DC 20554.
- Paper filers shall file serve one copy of their filing on David Roberts, Attorney Advisor, Federal Communications, Media Bureau, Video Division, 445 12th St. SW, Room 2-A771, Washington, D.C. 20554.

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

▪ SUPPLEMENTARY INFORMATION

The proceeding this Notice initiates shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules.²² Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that

²² 47 C.F.R. §§ 1.1200 *et seq.*

proceeding, and must be filed in their native format (*e.g.*, .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

For further information, contact David Roberts at (202) 418-1618. For Press inquiries, contact Janice Wise at (202) 418-8165.

By: Chief, Media Bureau